

18.05.2022

Learned counsel for the appellant present. Mr. Mohammad Riaz Khan Paindakhel, Assistant Advocate General for respondents present.

It is admitted at the bar that seniority of the appellant has not been fixed by the concerned authority since appointment of the appellant till her filing of this appeal or for that matter till date. Learned counsel for the appellant and learned Assistant Advocate General for the respondents jointly requested that the matter might be sent to the respondent authority with the directions to determine the seniority of the appellant in accordance with the law and rules within a period of sixty days from the receipt of this order. Copy of the same be sent to the Tribunal through Registrar. In case any such order has already been passed in accordance with the Khyber Pakhtunkhwa Government Servants (Appointment, Promotion and Transfer) Rules, 1989 or any other rules governing the terms and conditions of service of the appellant such order shall be sent to the Tribunal through its Registrar and copy of the same be provided to the appellant to challenge the same, if she so desires subject to limitations and restrictions. Disposed of accordingly. Consign.

Pronounced in open court in Abbottabad and given under my hand and seal of the Tribunal this 18th day of May, 2022.




(Kalim Arshad Khan)
Chairman
Camp Court Abbottabad

14.10.2021

Clerk of counsel for the appellant and Mr. Muhammad Adeel Butt, Addl. AG alongwith Muhammad Tauseef, ADEO for the respondents present.

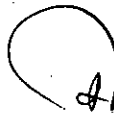
Respondents have furnished reply/comments. Placed on record. To come up for arguments on 17.01.2022 before the D.B at camp court, Abbottabad.



Chairman
Camp Court, A/Abad

17.01.2022

Nemo for the appellant. Mr. Kabirullah Khattak, Additional Advocate General for the respondents present.

Notice for prosecution of the appeal be issued to the appellant as well as his counsel through registered post and to come up for arguments before the D.B on 17.02.2022 at Camp Court Abbottabad.



(Rozina Rehman)
Member (J)
Camp Court A/Abad



(Salah-ud-Din)
Member (J)
Camp Court A/Abad

17.05 2022

Mr. Arshad Khan Tanoli, Advocate, learned counsel for the appellant present. Mr. Muhamad Riaz Khan Paindakhel, Assistant Advocate General alongwith Hamid Mehmood, Assistant for the respondents present.

Partial arguments heard. To come up for remaining arguments before D.B on 18.05.2022 at camp court Abbottabad.


(Fareeha Paul)
Member (E)


(Kalim Arshad Khan)
Chairman
Camp Court Abbottabad

22.10.2020

Representative of appellant present.

Usman Ghani learned District Attorney present.

Written reply on behalf respondents is still awaited. Notice be issued to respondents for submission of written reply/comments for 17.12.2020 before S.B at Camp Court, Abbottabad.



(Rozina Rehman)
Member (J)
Camp Court, A/Abad

*Due to COVID-19 case is
adjourned to 18-03-2021*



18.03.2021

Learned counsel for the appellant present.

Mr. Riaz Khan Paindakheil learned Assistant Advocate General alongwith Sohail Ahmed Zeb Litigation Officer and Touseef ADO litigation for respondents present.

Reply/comments on behalf of respondents not submitted. Representatives of respondent requested for time to submit reply/comments. Request is allowed. To come up for reply/comments on 14/7/2021 before S.B at Camp Court Abbottabad.



(Atiq ur Rehman Wazir)
Member (E)
Camp Court, A/Abad

Due to covid ,19 case to come up for the same on 18/4/20
at camp court abbottabad.


Reader

Due to summer vacation case to come up for the same on 122
10/7/20 at camp court abbottabad.


Reader

22.10.2019

Counsel for the appellant present. Mr. Usman Ghani, District Attorney present. Written reply not submitted. Syed Hajjaj Shah, Litigation Officer for the respondents present. Representative of respondents seeks time. Granted. To come up for written reply/comments on 21.11.2019 before S.B at Camp Court, Abbottabad.



Member
Camp court, A/Abad

21.11.2019

Clerk to counsel for the appellant present. Written reply not submitted. Hamid Mansoor Assistant representative of the respondent department present and seeks time to furnish written reply/comments. Granted. To come up for written reply/comments on 20.01.2020 before S.B at Camp Court, A/Abad.



Member
Camp Court, A/Abad

20.01.2020

Clerk to counsel for the appellant present. Written reply not submitted. Hamid Mansoor representative of the respondent department absent. Respondents as well as absent representative be put to notice for reply. Adjourn. To come up for written reply/comments on 18.02.2020 before S.B at Camp Court Abbottabad.



Member
Camp Court, Abbottabad

20.06.2019

Counsel for the appellant present.

Contends that the appellant was appointed as SST (Untrained) on 17.01.1983. Subsequently, on attaining the requisite qualification/experience the appellant was allowed graded pay with effect from the date of his appointment by virtue of judgment of this Tribunal passed on 05.05.1999 in Service Appeal No. 1902/1997. The respondents, however, denied the seniority of appellant from the date of his appointment which has resulted in enormous loss to the appellant in his service career.

In view of the available record and arguments of learned counsel, instant appeal is admitted for regular hearing. The appellant is directed to deposit security and process fee within 10 days. Thereafter, notices be issued to the respondents for submission of written reply/comments on 21.08.2019 before S.B at camp court, Abbottabad.

Appellant Deposited
Security & Process Fee



Chairman
Camp Court A/Abad

21.08.2019

Clerk to counsel for the appellant present. Written reply not submitted. M/S Sohail Ahmad Zeb Litigation Assistant (for respondents No.1 to 3) and Toseef Ahmad ADO Litigation (for respondent No.4) present and requested for time to furnish written reply/comments. Granted. To come up for written reply/comments on 22.10.2019 before S.B at Camp Court, Abbottabad.






Member
Camp Court A/Abad

Form- A
FORM OF ORDER SHEET

Court of _____

Case No. 312/2019

S.No.	Date of order proceedings	Order or other proceedings with signature of judge
1	2	3
1-	28/2/2019	<p>The appeal of Mr. Hafiz-ur-Rehman received today by post through Mr. Muhammad Arshad Khan Tanoli Advocate may be entered in the Institution Register and put up to the Worthy Chairman for proper order please.</p> <p style="text-align: right;"> REGISTRAR 28/2/19</p>
2-	13-3-19	<p>This case is entrusted to touring S. Bench at A.Abad for preliminary hearing to be put up there on <u>24-05-19</u>.</p> <p style="text-align: right;"> CHAIRMAN</p>
24.05.2019		<p>Counsel for the appellant present and requested for adjournment. Adjourned to 20.06.2019 for preliminary hearing before S.B at Camp Court Abbottabad.</p> <p style="text-align: right;"> (Muhammad Amin Khan Kundi) Member Camp Court Abbottabad</p>

**BEFORE THE SERVICE TRIBUNAL, KHYBER
PAKHTUNKHWA, PESHAWAR**

Service Appeal No. 312 /2019

Hafiz ur Rehman, SST, Govt. High School Shohal, Mazullah, District Abbottabad.

...APPELLANT

VERSUS

Govt. of Khyber Pakhtunkhwa, through Chief Secretary, Khyber Pakhtunkhwa, Peshawar & others.

...RESPONDENTS

SERVICE APPEAL

INDEX

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1.	Service appeal along with affidavit	1 to 7	
2.	Copy of appointment order of appellant	8	"A"
3.	Copies of judgment of this Honourable Court and the apex court	9-22	"B" & "C"
4.	Copies of letter dated 03/11/2007 and up-gradation order dated 25/07/2012	23-31	"D" & "E"
5.	Copy of departmental appeal	32	"F"
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Hafiz

...APPELLANT

Dated: 26/2 /2019

Through

(Muhammad Arshad Khan Tanoli)
Advocate High Court, Abbottabad

**BEFORE THE SERVICE TRIBUNAL, KHYBER
PAKHTUNKHWA, PESHAWAR**

Service Appeal No. 312 /2019

Hafiz ur Rehman, SST, Govt. High School Shohal, Mazullah, District
Abbottabad.

...APPELLANT

Khyber Pakhtunkhwa
Service Tribunal

Diary No. 296

Dated 28/2/2019

VERSUS

1. Govt. of Khyber Pakhtunkhwa, through Chief Secretary, Khyber Pakhtunkhwa, Peshawar.
2. Secretary, Elementary & Secondary Education, Khyber Pakhtunkhwa, Peshawar.
3. Director, Elementary & Secondary Education, Khyber Pakhtunkhwa, Peshawar.
4. District Education Officer E&SE (Male) District Mansehra.

...RESPONDENTS

Filed to-day

Registrar

28/2/19

SERVICE APPEAL UNDER SECTION 4 OF
KPK SERVICE TRIBUNAL ACT, 1974, FOR
DECLARATION TO THE EFFECT THAT THE
APPELLANT WAS APPOINTED AS SST ON
17/01/1983 AND HIS SERVICE WAS
REGULARIZED W.E.F 17/01/1983 BUT THE
PETITIONER HAS NOT BEEN GRANTED

SENIORITY FROM THE DATE OF HIS APPOINTMENT WHICH IS AGAINST THE LAW, DISCRIMINATORY AND THE RESPONDENTS DEPARTMENT ARE BOUND TO ALLOW SENIORITY TO THE PETITIONER W.E.F THE DATE OF HIS INITIAL APPOINTMENT AND THEREAFTER, THE PETITIONER MAY BE PROMOTED/UPGRADED IN THE NEXT HIGHER SCALE.

=====

PRAYER: ON ACCEPTANCE OF THE INSTANT SERVICE APPEAL, RESPONDENTS DEPARTMENT MAY GRACIOUSLY BE DIRECTED TO GRANT SENIORITY FROM THE DATE OF HIS INITIAL APPOINTMENT AND THEREAFTER ALL THE BENEFITS CONSEQUENTIAL THERE TO MAY BE GRANTED TO THE APPELLANT. ANY OTHER RELIEF THIS HONOURABLE TRIBUNAL DEEMS APPROPRIATE IN THE CIRCUMSTANCES MAY ALSO BE GRANTED TO THE APPELLANT.

=====

Respectfully Sheweth: -

1. That the appellant got appointment as SST untrained on 17/01/1983. Copy of appointment order of appellant is attached as Annexure "A".
2. That the appellant filed service appeal before this Honourable Tribunal which was accepted on 05/05/1999 and upheld by the apex court on 20/09/2001. Copies of judgment of this Honourable Court and the apex court are attached as Annexure "B" & "C".
3. That following this, the appellant was granted graded pay w.e.f 18/01/1998 as per decision of this Honourable Tribunal but the seniority of the petitioner was not allowed to the petitioner w.e.f the date of his initial appointment. Resultantly, the petitioner was not allowed promotion. In this regard copy of letter Endst No. 264-70 dated 03/11/2007 and grant of BPS-17 as personal vide order dated 25/07/2012 refer. Copies of letter

dated 03/11/2007 and up-gradation order dated 25/07/2012 are annexed as Annexure "D" & "E".

4. That the appellant time and again agitated the matter before the concerned authorities but of no avail. Copy of departmental appeal dated 20/11/18 is annexed as Annexure "F".
5. That the instant service appeal is filed on the following grounds;-

GROUND S;-

- (a) That seniority of the appellant has not been fixed from the date of his initial appointment dated 17/01/1983. As a result, the appellant has been given loss of his service career in terms of promotion etc.
- (b) That as per law, the seniority of the appellant is to be fixed from the date

of his initial appointment as SST and thereafter, all the fringe benefits incidental to the seniority from the date of his initial appointment is admissible to the appellant.

- (c) That when law prescribed some thing which is to be done in a particular manner that must be done and that manner. Herein the case of appellant, the law which envisages that the seniority is to be fixed of the employees from the date of their appointment in the same scale and grade.
- (d) That respondents department has led the appellant to the place which is absolutely unknown to the cannon of justice, fair play and good administration.
- (e) That there is no other prompt and efficacious remedy available to the appellant except the invocation of

jurisdiction of this Honourable Tribunal.

- (f) That other grounds shall be urged at the time of arguments.

It is, therefore, humbly prayed that on acceptance of the instant service appeal, respondents department may graciously be directed to grant seniority from the date of his initial appointment and thereafter all the benefits consequential there to may be granted to the appellant. Any other relief this Honourable Tribunal deems appropriate in the circumstances may also be granted to the appellant.

Hadiz

...APPELLANT

Dated: 26/2 /2019

Through

(Muhammad Arshad Khan Tanoli)
Advocate High Court, Abbottabad

VERIFICATION:-

Verified on oath that the contents of foregoing appeal are true and correct to the best of my knowledge and belief and nothing has been concealed therein from this Honourable Court.

Hadiz

...APPELLANT

**BEFORE THE SERVICE TRIBUNAL, KHYBER
PAKHTUNKHWA, PESHAWAR**

Service Appeal No. _____/2019

Hafiz ur Rehman, SST, Govt. High School Shohal, Mazullah, District
Abbottabad.

...APPELLANT

VERSUS

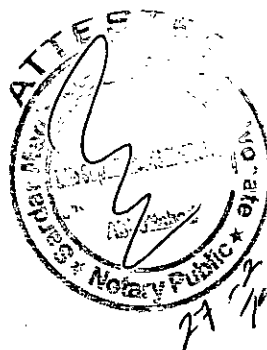
Govt. of Khyber Pakhtunkhwa, through Chief Secretary, Khyber
Pakhtunkhwa, Peshawar & others.

...RESPONDENTS

SERVICE APPEAL

AFFIDAVIT

I, Hafiz ur Rehman, SST, Govt. High School Shohal, Mazullah, District
Abbottabad, do hereby solemnly affirm and declare that the contents of
foregoing appeal are true and correct to the best of my knowledge and belief
and nothing has been concealed therein from this Honourable Court.



Hafiz
DEPONENT

Principal
Govt. High School
Khabra, District
Director No. 4 (Haripur)

SECRETARY DISTRICT EDUCATION
HARIPUR

ATTESTED

Attested

District Education Officer (A), Haripur
and District
Headmaster Govt. High School, Khabra, District
to that
Copy of the above is forwarded for information and a/c
Dated 17/1/83
1326-33
DIRECTOR OF THE DISTRICT EDUCATION
HARIPUR

1. Charge reports should be submitted to all concerned.
2. No TA/DA & etc is allowed to S.No. 2 & 3.
3. No joining time except what is absolutely necessary for transfer is allowed.
4. The applicant purely temporary and subject to termination/revocation at any time without assigning any reasons or notice.
5. The applicant is being made on temporary basis.
6. The heads of the institutions are required to check the candidates of the candidates of the candidates compared charge should not be handed over without actual verification by the heads.
7. In case the candidates failed to takeover charge within 15 days from the date of joining of this order, their spots will stand automatically cancelled.
8. Candidate S.No. 1 will not obtain continuity in his case from this appointment.
9. His regular appointment in Haripur will be issued when his turn comes in merit.
10. Candidates at S.No. 2 & 3 should produce their health and age certificates from the medical superintendent.
11. Candidates at S.No. 2 & 3 should not be handed over charge if their age is below 18 years or above 30 years.

CONDITIONS:-

1. Mr. J. S. Singh, P.O. Haripur, District Haripur.
2. Mr. J. S. Singh, P.O. Haripur, District Haripur.
3. Mr. J. S. Singh, P.O. Haripur, District Haripur.

The following S.No. 2 & 3 are hereby appointed against the vacant posts at the school noted against each S.No. 2 & 3. The date of taking over charge in the interest of public service on the following conditions:-

Office of the Director of Education, Haripur
Annex-A
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Annex-B

ORIGINAL

BEFORE THE NWFP SERVICE TRIBUNAL PESHAWAR



Appeal No. 1902/97

Date of institution - 23.8.97

Date of decision - 5.5.99

P-9

Hafizur Rehman SET (Science),
Govt. High School Talhatta Teh;
Balakot District Mansehra. (APPELLANT)

VERSUS

1. Secretary to Government of NWFP Education Department, Peshawar.
2. Director of Education (Secy) NWFP Peshawar.
3. Divisional Director of Education, Hazara Division A. abad. (RESPONDENTS)

Mr. Roohul Amin Advocate .. For appellant.
Mr. Mohammad Akram A.G.P. .. For respondents.
SYED ABID HUSSAIN BOKHARI ... MEMBER.
MR. MOHAMMAD AKRAM .. MEMBER.

JUDGMENT.

SYED ABID HUSSAIN BOKHARI, MEMBER:- This is an appeal filed by Hafizur Rehman appellant u/s 4 of the Service Tribunal Act 1974 against non-regularization of his service in the regular time scale No. 16 from the date of his induction and denying the benefits of six advance increments as admissible under the rules.

Brief facts of the case are that the appellant passed the degree examination of B.Sc (Hons) Agriculture in 1981 and was appointed against the vacant post of SET (Science) vide order No. 3 dated 17.1.83 in GHS Kalabat Township Scheme Haripur (Copies of Degree and Appointment letter are Annexures-A and B respectively). Till then, the appellant is serving the

RECEIVED
NWFP Service Tribunal
Peshawar

department smoothly with clean and unblemished service record without any service break (Annexure-C). The appellant preferred a departmental appeal to the respondents which has not been replied till filing of this appeal. The grounds of appeal are that the appellant is serving the department since 1983 with clean and unblemished service record to the entire satisfaction of his superiors, and has gained sufficient experience but he has been serving on fixed pay and his service has not been regularized so far, which amounts to discrimination. That non-regularization of service of the appellant and not awarding graded pay to him is against the law and norms of natural justice. That the appellant has obtained the B.Sc Agriculture Degree and has the requisite qualification for the said post. That the case of the appellant is similar and identical to the case Appeal No. 8/96 titled "Mohammad Afzal Vs. Director of Education etc" decided on 31.3.97 by this Tribunal. He has prayed for the regularization of his service in regular time scale No. 16 from the date of his induction in service, award of graded pay alongwith other benefits and grant of six advance increments as admissible under the rules.

Notices were issued to the respondents. They appeared through their respective representative/counsel, submitted reply rebutting all the allegations of the appellant. The appellant has also submitted his re-joinder and after that detailed arguments of the counsel for the parties have been heard and record perused.

Preliminary objections have not been pressed.

On factual side the case is quite simple and clear. This issue has been adjudicated upon time and again by this Tribunal and the judgments have been upheld by the Hon'ble Supreme Court of Pakistan. As far as the qualification is concerned, the appellant is the holder of B.Sc(Agriculture) Degree. He has worked on SET post for about 13/14 years with a spotless record and has got sufficient teaching experience at his credit and is fully entitled for the grant of graded

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pay and other benefits attached to the post. His other colleagues have been given the pay and the benefits while the appellant has been denied the same for no obvious reasons and there is no hurdle in awarding graded pay and advance increments to the appellant right from his induction and his service should be regularized accordingly. As far as the arrears are concerned, he is only allowed the arrears from the date of submission of his departmental appeal and as far as the training is concerned, according to the Hon'ble Supreme Court of Pakistan (on no discoverable principle the untrained teachers could be refused graded pay to their disadvantage by an executive fiat. 1976-SCMR-297) and last of all according to the famous judgment of the Hon'ble Supreme Court of Pakistan, benefit once extended by the Service Tribunal or Supreme Court should be followed by the department, "1996-SCMR-1185". With these observations we accept the appeal as prayed for, with no orders as to costs. File be consigned to the record.

ANNOUNCED.

5.5.1999 .

(SYED ABID HUSSAIN BOKHARI)
MEMBER.

Mohammad Shaukat
(MOHAMMAD SHAUKAT)
MEMBER.

[Signature]
EXAMINER
S.P.S. SERVICE TRIBUNALS
PESHAWAR

27-5-99
 Date of presentation of ap...
 Number of Words... 1250
 Copying fee... 5-00
 Urgent... 2-00
 Total... 7-00
 Name of copyist... *M. A. R. Khan*
 Date of Completion of copy... 27-5-99
 Date of delivery of copy... 27-5-99

Annex - C

ORIGINAL

137/c1

P-12

IN THE SUPREME COURT OF PAKISTAN
(Appellate Jurisdiction)

Present:

Mr. Justice Irshad Hasan Khan, C.J.

Mr. Justice Muhammad Arif

Mr. Justice Qazi Muhammad Farooq

CIVIL APPEALS NO. 117, 118 AND 595 TO 613 OF 2000.

(On appeal from judgments dated 5.5.1999 and 13.1.2000 passed by the NWFP Service Tribunal, Peshawar in Appeals No. 1902/97, 372/99, 77/99 to 81/99, 331/99, 332/99 and 373/99)

CA 117/2000.

Hafiz-ur-Rehman Vs. Secretary to Govt. of NWFP, Education Department and others.

CA 118/2000.

Secretary to Govt. of NWFP, Education Department and others Vs. Hafiz-ur-Rehman.

CA 595/2000.

Abdul Hameed Vs. Govt. of NWFP through Secretary, Education Department and others.

CA 596/2000.

Bahadar Khan Vs. Govt. of NWFP through Secretary, Education Department and others.

CA 597/2000.

Taj Muhammad Khan Vs. Govt. of NWFP through Secretary, Education Department and others.

CA 598/2000.

Naheed Usman Vs. Govt. of NWFP through Secretary, Education Department and others.

CA 599/2000.

Toor Gul Vs. Govt. of NWFP through Secretary, Education Department and others.

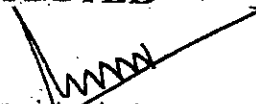
CA 600/2000.

Saadi Rehman Vs. Govt. of NWFP through Secretary, Education Department and others.

CA 601/2000.

Muhammad Latif Khan Vs. D.E.O. (M) Primary, Karak and others.

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Superintendent
Supreme Court of Pakistan
ISLAMABAD

CA 602/2000.

Zakar Badshsh Vs. D.E.O. (M)
Primary, Karak and others.

CA 603/2000.

Haji Saifur Rahman Vs. Govt. of
NWFP through Secretary,
Education and others.

CA 604/2000.

Govt. of NWFP through Secretary,
Education and others Vs.
Bahadar Khan.

CA 605/2000.

Govt. of NWFP through Secretary,
Education and others Vs. Taj
Muhammad Khan.

CA 606/2000.

Govt. of NWFP through Secretary,
Education and others Vs. Naheed
Usman.

CA 607/2000.

Govt. of NWFP through Secretary,
Education and others Vs. Toor
Gul.

CA 608/2000.

Govt. of NWFP through Secretary,
Education and others Vs. Saadi
Rehman.

CA 609/2000.

D.E.O. and others Vs. Fazal Dad.

CA 610/2000.

District Education Officer (Male)
Primary Karak and others Vs.
Muhammad Latif Khan.

CA 611/2000.

District Education Officer (Male)
Primary Karak and others Vs.
Zakar Badshah.

CA 612/2000.

Govt. of NWFP through Secretary,
Education and others Vs. Abdul
Hameed.

CA 613/2000.

Govt. of NWFP through Secretary,
Education and others Vs. Hafiz
Saif-ur-Rehman.

For the appellant:
(in CA 117/2000)

Mr. Muhammad Zahoor Qureshi
Azad, AOR.

For the respondents:
(in CA 117 and for the
appellants in CA 118/
2000)

Mr. Imtiaz Ali, Additional A.G.,
NWFP.

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Superintendent
Supreme Court of Pakistan
ISLAMABAD

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For the appellants:
(in CA 595 to 603/
2000)

Mr. Khushdil Khan Mohmand,
ASC with Mr. Muhammad Zahoor
Qureshi Azad, AOR.

For the respondents:
(in CAs 595 to 603/
2000 and for the appellants
in CAs 604 to 613/2000)

Mr. Intiaz Ali, Additional A.G.,
NWFP.

Date of hearing:

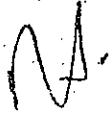
20.9.2001.

JUDGMENT

MUHAMMAD ARIF, J. - These appeals with leave of the Court have arisen out of two separate judgments dated 5.5.1999 and 13.1.2000 passed by the NWFP Service Tribunal, Peshawar (hereinafter referred to as the Tribunal) in Appeals No. 1902 of 1997 and 372 of 1999.

2. Brief facts in Civil Appeals No.117 and 118 of 2000 are that appellant Hafizur Rehman (C.A.117/2000) obtained B.Sc.(Hons) degree in the year 1981. He was appointed against a vacant post of SET (Science) on 'fixed pay' vide order No. 3 dated 17.1.1983 in Government High School, Kalabat Township, Haripur. He had been working on the said post for the last 13/14 years. After exhausting the departmental remedy, he filed appeal before the Tribunal praying for regularization of his service in regular time scale No.16 from the date of his induction in service; award of 'graded pay' with other benefits and grant of six advance increments on the ground that though he had been serving the Department since 1983 with unblemished record; his

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Superintendent
Supreme Court of Pakistan
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service had not been regularized so far which, according to him, amounted to discrimination.

3. The Tribunal accepted the appeal of the appellant and held him entitled to grant of 'graded pay' and other benefits attached to the post plus advance increments. It was also ordered that his service should be regularized. He was also allowed arrears but only from the date of submission of his departmental appeal.

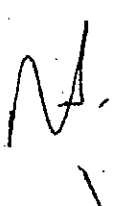
Civil Appeals No.595 to 613 of 2000.

4. Brief facts are that private appellants in the above appeals were appointed as S.V. Teachers (untrained) on fixed pay instead of running pay and on passing C.T. Training Course they were granted 'graded pay' with effect from 29.11.1987 i.e. the date of their qualifying the C.T. training course. Being aggrieved, the appellants approached the Tribunal through their respective appeals praying therein that award of 'graded pay' w.e.f. 29.11.1987 instead of the date of appointment is *mala fide* and against all canons of justice.

5. The Tribunal accepted the appeals and held the appellants entitled to running pay from the date of their initial appointment. As to arrears of pay, it was held that they will be entitled to arrears of pay from the date of their departmental appeals.

6. Leave to appeal was granted in Civil Petitions No.347-P and 392-P of 1999 leading to CAs 117 & 118 of 2000 respectively to consider the contentions : "...that although the NWFP Service Tribunal has granted substantial

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Superintendent
Supreme Court of Pakistan
ISLAMABAD

relief to the petitioner but the fetter imposed on the recovery of arrears by the observations, 'as far as the arrears are concerned, he is only allowed the arrears from the date of submission of his departmental appeal' is unwarranted" and that respondent-Hafizur Rehman's "educational qualification is restricted to B.Sc. whereas the qualification prescribed for the post of SET is BA/B.Sc. with B.Ed., under the relevant rules he is not entitled to graded pay being unqualified and untrained he is not eligible for appointment on regular basis unless he acquires prescribed qualification and 'graded pay' is given to trained teachers after selection on merit by the Departmental Promotion Committee or the Public Service Commission."

7. Para 2 of leave granting order leading to Civil Appeals No.595 to 613 of 2000 makes the following reading:

"2. Civil Petitions No.71-P to 79-P/2000 have been filed by the petitioners claiming entitlement of arrears of their pay etc. from the date of their initial appointment whereas Civil Petitions No.118-P to 125-P, 137-P & 138-P/2000 have been filed by the Government of N.W.F.P. wherein they impugn the correctness of the judgment in question to the extent that the petitioners in C.P.71-P to 79-P/2000 were entitled to graded pay from the date of their obtaining the requisite qualification for the post and not from the date of their initial appointment. The learned Addl. A.G. for his plea relies upon Muhammad Riasat Vs. Secretary Education (1997 SCMR 1626) and Federation of Pakistan Vs. Shahzada Shahpur Jan (1986 SCMR 991). Moreover, it was pointed out that leave has already been granted in Civil Petition No.347-P/99 on an identical legal point. Consequently, leave is granted in these petitions on the basis of earlier leave granting order and also to consider the correctness of the impugned judgment in view of the rule laid down in the precedent cases cited by the learned Addl. A.G.

ATTESTED


 Superintendent
 Supreme Court of Pakistan
 ISLAMABAD

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These appeals shall be heard along with the appeal arising out of C.P.437-P/99."

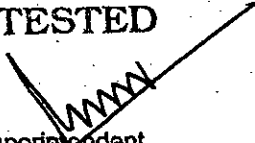
8. Mr.M.Zahoor Qureshi Azad, learned AOR for the appellant in C.A.117 of 2000 argued that at the time of appointment of his client on 17.1.1983, there was no requirement for B.Ed. and that he was appointed as Science Graduate permanently and not as 'untrained Teacher'. The only condition stipulated in his appointment letter was that he should produce his health and age certificates from the Medical Superintendent concerned. In 1983 there was no condition of B.Ed. degree and the amendment was introduced later on in December, 1983. The learned counsel referred to Notification No.FD.10(1)-115/63-1718/54 dated 5.1.1965 (at page-42 of the Paper Book) wherein qualification of B.Sc. (Agriculture) is mentioned for Agriculture Teachers and pointed out that in the same notification the grant of six advance increments for Agriculture Teachers with qualifications of B.Sc.(Agriculture) is also ordained. He also pressed into service the following excerpts for the Memorandum dated 14.4.1970 issued by the Director of Education, NWFP, Peshawar in that behalf:

.....

 iii. A Teacher with qualification of B.Sc. Agriculture only is entitled to six advance increments- based on qualification of agriculture post as well as on all post equal to SET post.

iv B.Sc. Agriculture with additional B.Ed. qualification is also entitled to get the benefit of B.Ed. training at Rs.10/- per month in the last pay scale

ATTESTED


 Superintendent
 Supreme Court of Pakistan
 ISLAMABAD

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w.e.f 14th October, 1955 & Rs.45/- per month in the consolidated scale w.e.f. 1.12.1962.

.....
.....
"Moreover, a Teacher with B.Sc. Agriculture Qualification etc. can be transferred to S.E.T. post on his own special pay scale based on his technical qualification."

9. Mr.Azad also referred to Province of Sind through the Secretary, Education Department, Karachi and 2 others v. Ghulam Rasul and 35 others (1976 SCMR 297) to contend that no distinction can be discerned between 'trained' and 'untrained' teachers with regard to the fixation of their pay.

10. Mr.Khushdil Khan Mohmand, learned ASC for the appellants in Civil Appeals No.595 to 603 of 2000 and respondents in Civil Appeals No.604 to 613 of 2000 (except CA 609/2000), argued that there are different judgments on the question/s involved in these cause. In majority of the case law 'graded pay' has been allowed from the date of initial appointment. He referred to: Province of Sind Vs. Ghulam Rasul (supra), Federation of Pakistan Vs. Shahzada Shahpur Jan and 2 others (1986 SCMR 991) and NWFP Government through Secretary Education, Peshawar and others Vs. Muhammad Qavi Khan (1996 SCMR 1011) in support of his clients' case. However, it is contended by him, in Muhammad Riasat, SET (Science) and others Vs. The Secretary of Education, NWFP, Peshawar and 2 others (1997 SCMR 1626),

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~~WMM~~
Superintendent
Supreme Court of Pakistan
ISLAMABAD


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the 'graded pay' has been allowed from the date of acquiring the requisite qualification.

11. Mr. Mohmand referred to the appointment-orders of his clients and argued that law does not permit appointment on 'fixed pay', 'temporary basis' or 'ad hoc basis' as had been gone ahead in the case of his clients. According to him, appointments on 'fixed pay' would mean that no annual increments will accrue to his clients which situation is nothing less than a form of punishment under the relevant Government Servants Rules.

12. Contrarily, Mr. Imtiaz Ali, learned Additional Advocate-General NWFP representing the Government and the Education Department in all these causes argued that the case of the employees is governed by the N.W.F.P. (Non-Gazetted) Teaching Staff (National Pay Scales) Rules, 1973 (page-27 of paper book in CA 118/2000). The only question which requires resolution is whether they are entitled to graded pay from the date of acquiring the requisite qualification or from the date of their initial appointment. According to him, this issue stands decided by this Court in Civil Appeal No.1086 of 1995, wherein Muhammad Riasat, SET (Science) and others v. The Secretary of Education, NWFP, Peshawar and 2 others (1997 SCMR 1626) was relied upon for the proposition that graded pay will be allowed from the date of acquiring the requisite qualifications. However, the learned Law Officer hastened to add that Civil Appeal No.1086/1995 was orally allowed on 11.6.2001 but judgment is still awaited.

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Supreme Court of Pakistan
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13. We have considered the arguments addressed at the Bar by the learned counsel and the learned Additional Advocate-General NWFP and have also gone through the available material with their help. Last paragraph of the impugned judgment dated 5.5.1999 makes the following reading :

"On factual side the case is quite simple and clear. This issue has been adjudicated upon time and again by this Tribunal and the judgments have been upheld by the Hon'ble Supreme Court of Pakistan. As far as the qualification is concerned, the appellant is the holder of B.Sc (Agriculture) Degree. He has worked on SET post for about 13/14 years with a spotless record and has got sufficient teaching experience at his credit and is fully entitled for the grant of graded pay and other benefits attached to the post. His other colleagues have been given the pay and the benefits while the appellant has been denied the same for no obvious reasons and there is no hurdle in awarding graded pay and advance increments to the appellant right from his induction and his service should be regularized accordingly. As far as the arrears are concerned, he is only allowed the arrears from the date of submission of his departmental appeal and as far as the training is concerned, according to the Hon'ble Supreme Court of Pakistan (on no discoverable principle the untrained teachers could be refused graded pay to their disadvantage by an executive fiat. (1976-SCMR-297) and last of all according to the famous judgment of the Hon'ble Supreme Court of Pakistan, benefit once extended by the Service Tribunal or Supreme Court should be followed by the department, "1996-SCMR-1185". With these observations we accept the appeal as prayed for, with no orders as to costs..."

The relevant para of the impugned judgment dated 13.1.2000 is in the following terms :

"A perusal of the record would show that the appellant was appointed as S.V. Teacher (Untrained) on fixed pay. He was awarded running pay w.e.f. 29.11.87 i.e. the date when he qualified the C.T. training. It has been held by the Service tribunal as well as

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Hon'ble Supreme Court of Pakistan in various judgments (SCMR-1996-1195-C), that if a person is made to work against a post, he is entitled to the running pay scale of that post. As the appellant was made to work against the post of S.V. and he performed his duties to the entire satisfaction of his superiors, therefore, he is entitled to the pay of that post. The Tribunal therefore, on acceptance of this appeal, orders that the appellant should be awarded the running pay from the date of his initial appointment. The appellant is however, entitled to the arrears of pay from the date of his departmental appeal i.e. 8.12.1998."

A joint reading of the aforequoted excerpts from both the impugned judgments of the Tribunal makes it abundantly

clear that appellant Hafizur Rehman:
 (a) being B.Sc.(Agriculture)
 (b) having worked against the post of SET for about 13/14 years with a spotless record AND
 (c) having gained sufficient teaching experience

was held to be entitled to 'graded pay' and other benefits attached to the post with the result that he was brought at par with other colleagues similarly placed with.

The Tribunal was quite right in bringing to bear the ratio of Ghulam Rasul (supra) on the facts and circumstances of the

case of Hafizur Rehman with the observation that benefits once extended in similar cases to the employees does not call

for being ignored in other similar situations/causes as ruled in Hameed Akhtar Niazi v. The Secretary, Establishment

Division, Government of Pakistan and others (1996 SCMR 1185). Similarly, it is not the case of the

Government/Department that the Tribunal was in error in referring to Hameed Akhtar Niazi (supra) in the impugned

judgment dated 13.1.2000 and holding that if a civil servant

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Superintendent
 Supreme Court of Pakistan
 ISLAMABAD

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is made to work against a post, he becomes entitled to the running pay scale of that post. We find that, as the appellants in Civil Appeals No. 595 of 2000 and others were made to work against the posts of S.V. and as they performed their duties to the entire satisfaction of their superiors, they were entitled to the pay of the relevant/respective posts.

14. Before parting with this matter, we may observe that in the absence of any justifiable cause whatsoever for interfering with judgments *in personam*, the impugned judgments dated 5.5.1999 and 13.1.2000 do not call for any tinkering therewith in these proceedings.

Resultantly, these appeals are dismissed and parties left to bear their respective costs.



Sd, Iqbal Hasan Khan, CJ
Sd, Nazimul Arif, J
Sd, Qazi Muhammed Farooq, J

Certified to be true Copy

[Signature]
Superintendent
Supreme Court of Pakistan
ISLAMABAD

Islamabad
Announced at 24.9.2001
September
This 24th day of Sept, 2001.

NOT APPROVED FOR REPORTING

Sd, Iqbal Hasan Khan CJ

24-9-2001

Case No.	623/01
Date of Filing	28-9-01
No. of Pages	32
No. of Exhibits	33
Requisition	57
Copy Fee	22-22
Court Fee	27-32
Date of Case	3-10-01
copy:	21/11/2001
Date of Case	
copy:	
Compared by	<i>[Signature]</i>
Received by	<i>M. Z. Qureshi</i>

Annex-D

Office of the Director Schools & Literacy NWFP, Peshawar.

Notification:-

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Consequent upon the decision of the Honorable NWFP Service Tribunal Peshawar in the appeal case No.1902/97 and in suppression of this office notification issued under Endst: No.1796 dated: 14-11-2003 Hafeez Ur Rehman SET (Agril:) working against SET (S) post GHS Talhata Manshera is hereby allowed graded pay of SET post (B-16) w.e.f. 18-01-1983, with no arrear upto 4-05-97, subject to the condition that:-

1. His seniority against SET (S) post will not be determined.
2. His services against SET (S) post will be regularized on his turn on merit as per Govt: policy.

Note:-

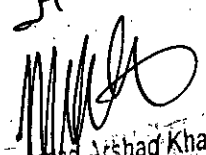
Necessary entry to this effect should be made in the relevant record.

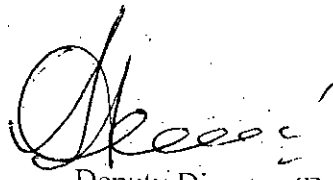
Director
Directorate of S&L,
NWFP, Peshawar

F.No.A-14/SET/M/Graded Pay/Deptt: Appeal

Endst: No. 2470 Dated Peshawar the 3/11/07
Copy forwarded for information to the:-

1. DCO Concerned.
2. EDO Concerned w/r to his letter No. 16525 dated 16-11-2006.
3. Registrar NWFP Service Tribunal Peshawar
4. DAO Concerned
5. Officer Concerned
6. PA to Director S&L Local Office
7. M/File.

Attested

Muhammad Arshad Khan Tanoli
Advocate High Court
Office No. 33 Adjacent to
Dist Bar Abbottabad


Deputy Director (Estab:)
Directorate of S&L,
NWFP, Peshawar

Annex - E



GOVERNMENT OF KHYBER PAKHTUNKHWA
ELEMENTARY & SECONDARY EDUCATION DEPARTMENT

Dated Peshawar the 25-7-2012.

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NOTIFICATION.

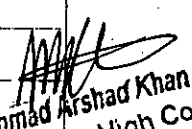
NO.SO(PE)/2-6/DPC Meeting(1-6-2012. On the recommendations of the Departmental Promotion Committee, the competent authority is pleased to upgrade the following (215) number Male SETs and (49) number Female SETs from BS-16 to BS-17 as (Personal) with immediate effect:-

Male.

S.#	S.L.#	Name of Officer & Present Place of Posting
1	15	Nisar ud Din SET GCMHS No.2 Peshawar City
2	151	Saeed ur Rehman SET GHSS Dodhial Mansehra
3	705	Mir Zaman SET GMS Khujai SWA
4	795	Salim Khan SET GMS Dashka SWA
5	2410	Rahim Dil Khan SET GHS Mangala Lakki
6	2798	Sabir Hussain SET GHS Jattipind Haripur
7	3234	Ayub Khan SET GHS Jeewar Takht Bhai Mardan
8	3243	Afsar Ali Shah SET GHSS Baffa Mansehra
9	3553	Muhammad Rafiq SET GHS Hussainia Mansehra
10	3557	Muhammad Ismail SET GMS Ghari Sikandar Khan Peshawar
11	3558	Muhammad Sharif SET GHS Pattan Khurd Abbottabad
12	3559	Hafiz ur Rehman SET GHSS Ghari Habibullah Mansehra
13	3564	Ihsan Ullah SET GHS Baist Khel Lakki
14	3574	Hidayat ur Rehman SET GHS Dabgari Gate Peshawar
15	3578	Javed SET GCMHS Dir Khas
16	3589	Falak Naz SET GHS Panjpir Swabi
17	3593	Hafeez Ullah SET GHS Kurai DI Khan
18	3594	Muhammad Nawaz SET GHS Tano Swabi
19	3596	Lajbar Khan SET GHS Mali Khel Bala Nowshera
20	3597	Atta ur Rehman SET GHS Miran Shah NWA
21	3598	Mahmood SET GHSS Haji Baba Mingora Swat
22	3600	Muhammad Tariq Khan SET GHSS No.1 Peshawar Cantt
23	3603	Sana Ullah SET GHSS No.1 Peshawar City
24	3609	Aqeel Ahmad SET GHS Gandhi Umar Khan DI Khan
25	3610	Khaista Rehman SET GHS Haji Abad Dir (L)
26	3620	Iqbal Hussain SET GHS Haji Yarjan Killi Moh.Agy
27	3621	Muhammad Javed Iqbal SET GCMHS No.1 DI Khan
28	3625	Ismail SET GHS Tindodag Swat
29	3627	Shahzada SET GHS Pabaini Swabi

Attested
Muhammad Arshad Khan Tanoli
Advocate High Court
Office No 33 Adjacent to
Peshawar Abbottabad

30	3631	Amjad Ali Khan SET GHS Barbar Opazai Peshawar
31	3634	Momin Khan SET GHS Julagram Malakand
32	3635	Sultan Ghani SET GHS Shamoza Mardan
33	3638	Muhammad Asif SET GHS Dagbesud Nowshera
34	3641	Latifur Rehman SET GHS Gul Abad Tangi Charsadda
35	3642	Muhammad Saleem SET GHS Bagra Haripur
36	3645	Muhammad Zahid SET GSS Bodla Abbottabad
37	3647	Ashfaq Ahmad SET GHS No.2 Nowshera Kalan
38	3648	Arif Ullah Khan SET GHSS Shahbaz Khel Lakki
39	3652	Qaisar Alam SET GHS Behzadi Chikar Kot Kohat
40	3653	Hassan Khan SET GHS Abba Khel Lakki
41	3659	Muhammad Tahir SET GCHS Kohat
42	3660	Abdul Majid SET GHS Deh Bahadar Peshawar
43	3661	Habib Noor SET GHS Kirrosam Kohat
44	3663	Aman Ullah Khan SET GHSS Panian Haripur
45	3667	Sahibzada Waqar Ahmad SET GHS No.3 KTS Haripur
46	3670	Amir Ali SET GHS Kiri Dhand Karak
47	3671	Muhammad Tariq SET GCMS No.3 Mardan
48	3674	Subhan Ullah SET GHSS No.3 Peshawar City
49	3678	Ahmad Shah SET GHS Khojaki Killa Karak
50	3680	Tariq Mehmood SET GHS Kot Najibullah Haripur
51	3684	Ghulam Muhammad SET GCMHS TT Ship Haripur
52	3686	Sajjad Khan SET GHS Karwala Haripur
53	3687	Muhammad Riaz SET GHS Manzini Karak
54	3689	Muhammad Rafiq SET GHS Mekhband Malakand
55	3694	Fazal Khaliq SET GHS Guligram Saidu Sharif Swat
56	3698	Fazli Dayan SET GHS No.1 Skhatkot Malakand
57	3704	Asmat Ullah SET GHS Shamshad-Abad Mardan
58	3707	Waqar Ali Khanzada SET GHS Jalbai Swabi
59	3712	Haroon Shehzad SET GHS Laban Bandi Haripur
60	3713	Gul Rehman SET GHS Mandawa Karak
61	3714	Arshad Hamid SET GCMHS Peshawar City
62	3715	Muhammad Tariq Rafiq SET GHS Nakband Kohat
63	3717	Said Karim SET GHS Chanar Buner
64	3718	Hussain Ali SET GMS Jalsai Swabi
65	3720	Khalid Khan SET GHS Dabgari Gate Peshawar
66	3721	Muhammad Tariq SET GHS Hayat Abad Karak
67	3724	Anwar Ali SET GMS Naik Nam Swabi
68	3725	Asad Khan SET GHS Adamzai Nowshera
69	3726	Hazrat Wahab SET GHS Lund Khwar Mardan
70	3728	Abdus Sattar SET GHS Jeewar Takht Bhai Mardan
71	3729	Mir Rehman SET GMS Zafar Killi Moh.Agy
72	3731	Wasi Muhammad SET GHS Topi Swabi
73	3738	Muhammad Raza SET GHS Bogara Karak

Attested

 Muhammad Arshad Khan Tanoli
 Advocate High Court
 Office No. 33 Adjacent to
 Bar Abbottabad

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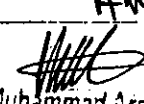
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75	3746	Ihsan Ullah SET GHSS Takkar Mardan
76	3748	Faizur Rehman SET GHS Liosam Bajour Agy
77	3749	Ali Bahadar SET GHS Ghazi Haripur
78	3750	Dilshad Ahmad SET GCMHS Marghuz Swabi
79	3752	Zamir Gul SET GHSS Chamtar Mardan
80	3754	Muhammad Arshad SET GMMS Haripur
81	3755	Zia ul Haq SET GHS Ahmad Khel Lakki
82	3757	Asghar Ali Shah SET GHS Managi Swabi
83	3758	Gul Qias Khan SET GHS Tatti Palose FR Lakki
84	3761	Abdul Waheed SET GHS Rehmat Abad Karak
85	3762	Zahir Ullah SET GCMHS Peshawar Cantt
86	3763	Zahid ur Rehman SET GHS Shewa Swabi
87	3766	Liaqat Mahmood SET GHS Jabri Haripur
88	3768	Izhar Ahmad SET GHS Jamal Ghari Mardan
89	3771	Raza Jan SET GHS No.1 Charsadda
90	3779	Saleh Amin SET GHS Kozpow Shangla
91	3783	Naeem Khan SET GHS Badama Kurr.Agy
92	3785	Hazrat Muhammad SET GHSS No.2 Peshawar Cantt
93	3786	Marifat Shah SET GHS Kandi Kalu Khel Nasirpur Peshawar
94	3787	Muhammad Nasim SET GHS Sheikhan Kohat
95	3789	Muhammad Farooq SET GHS Paya FR Kohat
96	3790	Saleem Khan SET GHSS No.3 Peshawar City
97	3791	Ghulam Mustafa SET GHSS No.1 Peshawar Cantt
98	3792	Muhsin Shah SET GMS Gallai Sirikot Haripur
99	3793	Jehan Mir SET GHSS Mayar Mardan
100	3795	Muhammad Riaz SET GHSS Panian Haripur
101	3798	Rasool Shah SET GCHS Kohat
102	3799	Mubashir Iqbal SET GHSS Togh Bala Kohat
103	3800	Alif Noor SET GHS Mianji Khel Hangu
104	3803	Muhammad Naeem SET GHS No.2 Paharpur DI Khan
105	3804	Zaka Ullah Khan SET GHS No.3 Kohat
106	3808	Syed Mukhtar Ahmad Shah SET GCHS Kohat
107	3809	Syed Qalb-e-Hussain SET GHS Chakarkot Bala Kohat
108	3810	Gul Muhammad SET GMS Jangi Dher Swabi
109	3811	Ghani ur Rehman SET GHS Kotka Muhammad Khan Bannu
110	3812	Muhammad Siraj SET GHS Rarai Kandaw Puran Shangla
111	3813	Muhammad Luqman SET GHS No.2 Kohat
112	3814	Abdul Ghafoor SET GMS Swar Maira Haripur
113	3815	Saif Ullah Khan SET GHS No.2 Nowshera Cantt
114	3816	Amjad Ali Khan SET GHSS No.1 Peshawar Cantt
115	3817	Sharif Khan SET GHS Uchat Kurr.Agy
116	3819	Hazir Nawaz SET GHS Sarki Lawaghar Karak

Attested
 Muhammad Arshad Khan Tanoli
 Advocate High Court
 Office No 33 Adjacent to
 Dar Abbottabad

117	3820	Asmat Ullah Khan SET GHS Dabb Karak
118	3821	Bahadar Khan SET GMS Kuz Kaddi Ghallanai Moh.Agy
119	3825	Syed Ali Afsar SET GMS Moti Banda Mardan
120	3829	Kifayat Ullah SET GCMHS Alpurai Shangla
121	3834	Ghaza Bacha SET GHSS Thand Koi Swabi
122	3836	Gohar Ali SET GHS No.2 Tangi Charsadda
123	3840	Muhammad Ibrahim Shah SET GHSS No.2 KTS Haripur
124	3842	Arshad Jamal SET GHS No.1 Bicket Gunj Mardan
125	3846	Riaz Muhammad SET GHS Malakand
126	3848	Amin Khan SET GHS Jamal Ghari Mardan
127	3849	Gulfam SET GHS Parshai Kohat
128	3851	Abdus Samad SET GHS Surati Kalla Karak
129	3852	Nasir Khan SET GHSS Jamrud Khy.Agy
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133	3864	Rehan Ullah SET GHSS Mingora Swat
134	3865	Muhammad Sabil Khan SET GMS Mir Alam Chashmi Bannu
135	3867	Hidayat Ullah SET GMS Akbar Abad Batkhela Malakand
136	3869	Raham Dad Khan SET GHSS Ghalanai-Moh.Agy
137	3871	Nazir Ahmad SET GHS Dobanda Haripur
138	3872	Shahab ud Din SET AEO NWA
139	3873	Lal Zaman SET GHS Totai Malakand
140	3874	Mushtaq Hussain SET GMHS Parachinar Kurr.Agy
141	3875	Jehangir Khan SET GMS Aqrab Dag Moh.Agy
142	3876	Abdul Karim SET GHS Kharki Dheri Malakand
143	3877	Gohar Ali SET GHS Kot Mardan
144	3878	Arshad Mahmood SET GMS Rahat Kor Moh.Agy
145	3880	Akhtar Hussain SET GHS Beesak Sawabi
146	3881	Irfan Muhammad Afridi SET GHS Turki Ismail Khel FR Kohat
147	3882	Chand Riaz SET GHS Malakand Dir (L)
148	3883	Muhammad Ismail SET GHSS Lal Qilla Dir (L)
149	3885	Hassan ul Haq SET GMS Dherai Kambat Dir (L)
150	3886	Fazli Mabood SET GHS Afrido Killi Nowshera
151	3889	Gul Safdar Khan SET GHS Ghari Kapura Mardan
152	3890	Abdul Hafeez SET GHSS Barawal Dir (U)
153	3891	Amir Alam SET GHSS Hathian Mardan
154	3892	Amir Jan SET GMS Hisarak Dir (L)
155	3893	Tahir Hussain SET GHS Amir Jamal Kurr.Agy
156	3894	Jamshed Khan SET GHS Faram Koroona Mardan
157	3895	Zahir Ali SET GHS Chapper Mishti Orakzai Agency
158	3897	Wazir ur Rehman SET GHS Gulshah Jan Kot NWA

Attested
 Muhammad Iqbal
 Advocate
 Office No. 33
 33 Adjacent to
 Abbottabad

159	3898	Muhammad Sher Zaman SET GMS Thrikh Talai SWA
160	3899	Wazir Muhammad SET GMS Mallah Abbottabad
161	3900	Karim Dad SET GCMS Mansehra
162	3901	Muhammad Shakil Ahmad SET GHS Ikrampur Mardan
163	3903	Iftikhar Ahmad SET GHS Kag Haripur
164	3553-A FSL-12	Muhammad Altaf ur Rehman SET GHS Dhindha Haripur
165	3626 FSL- 12	Mir Salam Khan SET GHS Haryan Swabi
166	3628 FSL- 12	Rawail Khan SET GHS Lahor Swabi
167	3649 FSL- 12	Javed Iqbal SET GHS Naivela D.I Khan
168	3654 FSL- 12	Jamil Khan SET GHS Bakka Khel FR Bannu
169	3690 FSL- 12	Muhammad Bashir SET GMS Todu Maira Abbottabad
170	3691 FSL- 12	Abdur Rehman SET GCMHS No.2 D.I Khan
171	3743 FSL- 12	Gul Muhammad SET GHS No.2 Tordher Swabi
172	3751 FSL- 12	Niaz Muhammad SET GHS Jarral Abbottabad
173	3764 FSL- 12	Muhammad Aurangzeb SET GHSS Battal Mansehra
174	3822 FSL- 12	Farid Ullah SET GHS Badhaber Peshawar
175	3854 FSL- 12	Muhammad Tarif SET GCMHS No.1 Lakki
176	3859 FSL- 12	Afsar Ali SET GMS Nabi Swabi
177	3862 FSL- 12	Nisar Ahmad SET GCMHS Landi Kotal Khy.Agy
178	3902-A FSL-12	Abdus Samad SET GCMHS Peshawar Cantt
179	3902-B FSL-12	Habib ur Rehman Anjum SET GCMHS Peshawar Cantt
180	3902-C FSL-12	Bakht Zada SET GHSS Qutab Ghar Mardan
181	3903-A FSL-12	Hikmat Ullah SET GHSS Shahbaz Khel Lakki

Attested

 Muhammad Arshad
 Advocate High Court
 Office No 33 Adjacent
 Distt 3rd Floor Abbottabad

182	2476 FSL- 12	Javed Mustafa SET GHS Dabgari Peshawar
183	2631 FSL- 12	Abdur Rahim SET GMS Wanda Meherdil D.I Khan
184	3632 FSL- 12	Kaleem Ullah SET GHS Nal Malakand
185	3643 FSL- 12	Muhammad Shoiab SET GHS Darzinda FR D.I Khan
186	3702 FSL- 12	Aurangzeb Khan SET GMS Doag SWA
187	3745 FSL- 12	Muhammad Mutaher Qureshi SET GHSS Muryali D.I Khan

188	3801 FSL-12	Syed Hassan SET GMS Asmat Abad Lakki
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189	2987 FSL-12	Asif Hussain SET GHSS No.1 Mansehra
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190	3586 FSL-12	Muhammad Ibrahim SET GMS Wanda Hisam DI Khan
191	3673 FSL-12	Kifayat Ullah SET GHS Babuzai Katlang Mardan
192	3903-B FSL-12	Fida Muhammad SET GHS Zuhra Gul Killi Charsadda
193	2457 FSL-12	Fakhri Alam SET GMS Nawanshehr ATD
194	3595 FSL-12	Muhammad Daud SET GHS Bagnotar Abbottabad
195	3601 FSL-12	Badar Munir SET GHSS Khanaspur Ayubia Abbottabad
196	3606 FSL-12	Allaud Din SET GHS No.1 Bannu
197	3637 FSL-12	Abdul Sattar Khan SET GHS Nazar Abad Matta Swat
198	3650 FSL-12	Bukhar Ali Shah SET GHSS (Comp) Bannu
199	3666 FSL-12	Nek Dar Babar SET GMS Bhangi Khan Mughal Khel Bannu
200	3681 FSL-12	Naimat Ullah SET GMS Gamber Bannu
201	3709 FSL-12	Dil Nawaz Khan SET GHS Fazal Shah Mitah Khel Bannu
202	3716 FSL-12	Muhammad Saeed Shah SET GHS Mandoori Kohat
203	3719 FSL-12	Rehman Sher SET GHS Maneri Payan Swabi
204	3735 FSL-12	Muhammad Rauf Khan SET GMS Sher Gul Khujary Bannu
205	3744 FSL-12	Saeed Ullah Jan SET GHS Jani Khel Mali Khel Bannu
206	3765 FSL-12	Nek Daraz Khan SET GHS No.1 Bannu
207	3773 FSL-12	Nadeem Khan SET GHS Siah Warghar Dir (L)
208	3776 FSL-12	Javed Khan SET GHS No.2 Bannu
209	3802 FSL-12	Muhammad Tanveer SET GHSS Bagnotar Abbottabad
210	3805 FSL-12	Sattar Khan SET GMS Domanza Bizen Khel Bannu
211	3827 FSL-12	Muhammad Majid Mirza SET GCMSS Abbottabad
212	3841 FSL-12	Akbar Ali Khan SET GMS Mandezai Charsadda
213	3857 FSL-12	Khurshid Alam SET GHS Jan Killa Surani Bannu
214	3868 FSL-12	Hidayat Ullah SET GMS Kabalkoo Swat
215	3884 FSL-12	Ahmad Sher SET GHS Gwalerai Swat

Attested
 Muhammad Tanveer Khan Tanoli
 Advocate High Court
 Office No 33 Adjacent to
 Dist. B. Abbottabad

FEMALE.

1	329 FSL-11	Imtiaz Begum SET GGMS Ogra Mansehra
2	373 FSL-11	Samina Rauf SET GGHSS Kalabat Township Haripur
3	817 FSL-11	Asia SET GGHS Badrashi Nowshera
4	843 FSL-11	Nusrat Naseem SET GGCMSS Jabba Duadzai Akba Pura
5	845 FSL-11	Nuzhat SET GGHS Ratta Kulachi DI Khan
6	895 FSL-11	Shahida Habib SET GCMSS Meelam Haripur
7	918 FSL-11	Shahida Kausar SET GGHS Battal Mansehra

8	1117 FSL-11	Shagufta SET GGMS Nouman Killi FR Peshawar
9	1255 FSL-11	Afsara Bibi SET GCMS Ghalji Khandar. Khel Peshawar
10	1338 FSL-11	Safia Begum SET GGMS Wazir Killi Moh. Agy
11	1349 FSL-11	Laila Sultan SET GGHS M.Hassan Milla FR Kohat
12	1360 FSL-11	Rakhshanda Mehdi SET GGHS Civil Quarters Peshawar
13	1380 FSL-11	Tasawar Faras SET GGCMMS Musazai DI Khan
14	1382 FSL-11	Farzana Shaheen SET GGMS Ahmad Khel Peshawar
15	1384 FSL-11	Syeda Nagina Najaf SET GGMS Kachi Kath GarhDI Khan
16	1393 FSL-11	Jamilā Hashim SET GGMS Jhari Mardan
17	1399 FSL-11	Sumaya Bibi SET GGHS No.5 DI Khan
18	1405 FSL-11	Faiza SET GGHS Maneri Bala Swabi
19	1414 FSL-11	Samina Bibi SET GMGHS Haripur
20	1415 FSL-11	Shabana Bibi SET GGHS Badhber Peshawar
21	1418 FSL-11	Munazza Gul SET GGHS Hassa DI Khan
22	1420 FSL-11	Razia Begum SET GHS No.1 Peshawar Cantt
23	1421 FSL-11	Saima Khadim SET GGHS Jogiwara Peshawar
24	1426 FSL-11	Noreen Ayaz SET GGHS Bhera Haripur
25	1431 FSL-11	Farzana Noreen SET GGCMHS Nothia Peshawar
26	1435 FSL-11	Robina Naz SET GGCMMS Kandhari Gul Abad Charsadda
27	1452 FSL-11	Qamar Jan SET GGHS Warana Musakan Karak
28	1462 FSL-11	Yasmin Akhtar SET GGMS Guldheri Nowshera
29	1467 FSL-11	Iffat Younas SET GGHS No.2 Haripur
30	1472 FSL-11	Farzana Bibi SET GGMS Chahkan DI Khan
31	1477 FSL-11	Farkhanda Aisha SET GMGHS Haripur
32	1484 FSL-11	Parveen Hafeez Rizvi SET GGHS Mian Gujar. Peshawar
33	1494 FSL-11	Kalsoom SET GGHS Totakan Malakand
34	1379 FSL-11	Kausar Jabeen SET GGHS Mangloor Mansehra
35	1458 FSL-11	Mehnaz Iqbal SET GGHS No.1 Peshawar Cantt
36	1501-A FSL-11	Nasreen Begum SET GGHS Kooper Malakand
37	194-FSL-11	Sumreen Saad SET GGMS Kharu Wali D.I Khan
38	472 FSL-11	Tallat Shaheen SET GGMS Gara Issa Khan D.I Khan
39	830 FSL-11	Abida Nasreen SET GHSS Daraban Kalan D.I Khan
40	1400 FSL-11	Samia Shakir SET GGHS Gandhian Mansehra
41	1464-FSL-11	Yasmin Habib SET GGMS Salam Khand Haripur
42	1294 FSL-11	Shahida Parveen SET GGCMMS M.Ali Killi Jalala Mardan
43	1364 FSL-11	Alia Tamanna GGHS Turangzai Charsadda
44	1392 FSL-11	Farzana Bukhari SET GGHS Tarnab Farm Peshawar
45	1455 FSL-11	Nazneen SET GGMS Khattak Building NSR Cantt
46	1383 FSL-11	Farzaha Fatima SET GGCMHS Bannu
47	1486 FSL-11	Sofia Noreen SET GGMS Manhoori Nowshera
48	1491 FSL-11	Shaheen Aziz SET GGHS Dir (U)

Attested

Muhammad Arshad Khan Tanoli
 Advocate High Court
 Office No: 33 Adjacent to
 Distt. Peshawar

49	1492 FSL- 11	Nusrat Saeed SET GGHSS Dir (U)
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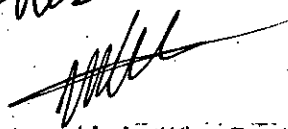
SECRETARY

Endst. No. & Date as above.

Copy forwarded to:-

1. The Secretary to Govt. of Khyber Pakhtunkhwa, Establishment Department.
2. The Secretary to Govt. of Khyber Pakhtunkhwa, Finance Department.
3. The Director (E&SE) Khyber Pakhtunkhwa Peshawar.
4. The Director Education (FATA) Khyber Pakhtunkhwa, Peshawar.
5. The Director Curriculum & Teachers Education Abbottabad.
6. The Accountant General Khyber Pakhtunkhwa, Peshawar.
7. The Deputy Director Database (EMIS) E&SE Department.
8. The Executive District Officers Elementary & Secondary Education concerned.
9. The District Accounts Officers concerned.
10. PS to Minister E&SE Khyber Pakhtunkhwa Peshawar.
11. PS to Secretary E&SE Department.
12. Officers concerned.
13. Master File.

(MUHAMMAD AYUB KHAN)
SECTION OFFICER (PRIMARY)

Attested

 Muhammad Arshad Khan Tanoli
 Advocate High Court
 Office No. 33 Adjacent to
 Distt. Office Abbottabad

20/11/81

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BEFORE THE HONORABLE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL
PESHAWAR CAMP COURT ABBOTTABAD.

Appeal No. 312/2019

Hafiz-Ur-Rehman.....Appellant

VERSUS

Govt: of Khyber Pakhtunkhwa & Others.....Respondents

JOINT PARA WISE COMMENTS ON BEHALF OF RESPONDENTS

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Sr.#	Description	Page No's	Annexure
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adjacent
Abbottabad

①

BEFORE THE HONORABLE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL
PESHAWAR CAMP COURT ABBOTTABAD.

Appeal No. 312/2019

Hafiz-Ur-Rehman.....Appellant

VERSUS

Govt: of Khyber Pakhtunkhwa & Others.....Respondents

JOINT PARA WISE COMMENTS ON BEHALF OF RESPONDENTS

Respectfully Sheweth:-

Comments on behalf of respondents are submitted as under:-

PRELIMINARY OBJECTIONS:-

1. That the appellant has no cause of action to file the instant appeal.
2. That the appeal of the appellant is time barred. Hence liable to be dismissed.
3. That the appellant was appointed as SST untrained on 17-01-1983 whereas, he filed departmental appeal on 20-11-2018, after the lapse of 36 years hence, instant appeal is hit by the **Principle of Latches**.
4. That the instant appeal is not maintainable in its present form hence, instant appeal is liable to be dismissed.
5. That the instant appeal is against the prevailing policy of the Government hence, liable to be dismissed.
6. That appellant did not impugn the notification No. 264-70 dated 03-11-2007 hence, instant appeal is liable to be dismissed without further proceedings.
7. That as per section 8 sub section 4 of NW FP Civil Servant Act 1973, for proper administration of the service, cadre or post, the appointing authority shall cause a seniority list of the members for the time being of such service, cadre of post to be prepared but nothing herein contained shall be construed to conferred any vested right to a particular seniority in such service, cadre or post as the case may be hence, instant appeal is liable to be dismissed on this score alone.

8. That the appellant has filed the present appeal to pressurize the respondents.
9. That the appellant has not come to this Honorable Tribunal with clean hands.
10. That the appellant is estopped to sue due to his own conduct.
11. That the instant appeal is not maintainable due to non-joinder and mis-joinder of necessary parties.
12. That the instant appeal is not competent as there is no final order.

ON-FACTS:

1. In reply to the Para No. 1 of the service appeal it is submitted that appellant was appointed as SST untrained on 17-01-1983.
2. In reply to Para No.2 of the service appeal it is submitted that the said service appeal was against non-regularization of his service in the regular time scale No. 16 from the date of his induction and denying the benefits of six advance increments.
3. In reply to Para No. 3 of the appeal it is submitted that appellant was allowed graded pay of SST post w.e.f 18-01-1983 vide Notification No. 264-70 dated 03-11-2007 wherein, it was categorically mentioned that " His seniority against SET post will not be determined." Whereas appellant did not challenge the notification dated 03-11-2007 hence, the appeal of the appellant is liable to be dismissed without any further proceedings.
4. That the Para No. 4, of the appeal as composed is incorrect hence, denied as appellant did not file departmental appeal.

GROUND:

- a. That ground a, as composed is incorrect hence, denied as. As per 1993 SCMR 1119 seniority in a particular grade is reckoned from the date of regular appointment.
- b. That ground b, as composed is incorrect hence, denied as complete and comprehensive reply has already been given in Para No. 7 of the Preliminary Objections.
- c. That ground c, as composed is incorrect hence, denied.
- d. That ground d, as composed is incorrect hence, denied.

- e. That ground e, as composed is incorrect hence, denied.
- f. That the respondents seek leave of this Honorable Court to raise additional grounds at the time of arguments.

Under these circumstances, it is humbly prayed that the instant appeal is meritless against the law and facts, hence liable to be dismissed with cost.



[Signature]
 Director (E&SED) Khyber Pakhtunkhwa
 Peshawar
 (Respondent No. 3)

[Signature]
 Secretary (E&SED) Khyber Pakhtunkhwa
 Peshawar
 (Respondent No. 1 & 2)

[Signature]
 District Education Officer (M)
 Mansehra
 (Respondent No. 4)

4

**Before the Honorable Khyber Pakhtunkhwa Service Tribunal
Peshawar Camp court Abbottabad.**

Appeal No. 312/2019

Hafiz-Ur-Rehman.....Appellant

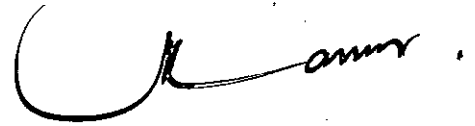
VERSUS

Govt: of Khyber Pakhtunkhwa & Others.....Respondents

JOINT PARA WISE COMMENTS ON BEHALF OF RESPONDENTS

AFFIDAVIT

I, Mr. Muhammad Tanveer District Education Officer (M) Mansehra, do hereby affirm and declare that contents of forgoing comments are correct and true according to the best of my knowledge and belief and nothing has been suppressed from this Honorable Court.



DEPONENT